



**STATE OF NEW JERSEY**

*Board of Public Utilities*

*Two Gateway Center*

*Newark, NJ 07102*

*[www.bpu.state.nj.us](http://www.bpu.state.nj.us)*

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF CITIBROADBAND )  
WIRELESS, INC. FOR A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY TO PROVIDE )  
FACILITIES-BASED AND RESOLD LOCAL EXCHANGE )  
AND INTEREXCHANGE TELECOMMUNICATIONS )  
SERVICES THROUGHOUT THE STATE OF NEW JERSEY )

ORDER

DOCKET NO. TE06060468

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letter dated June 19, 2006, CitiBroadband Wireless, Inc. ("Petitioner" or "CitiBroadband") filed a Petition with the Board of Public Utilities ("Board") requesting authority to provide competitive local exchange telecommunications services throughout the State of New Jersey. Petitioner requests confidential treatment of the financial information in Exhibit 4 of its Petition. Pursuant to the Open Public Records Act, N.J.S.A. 47: A-1 et seq., the Petitioner has submitted its financial information under seal and has included a sworn affidavit with substantiation for confidential treatment in order to limit the availability of proprietary information.

CitiBroadband was incorporated under the laws of the State of Delaware on July 12, 2005. Petitioner's principal offices are located at 198 Brighton Avenue, Long Branch, New Jersey 07740. Petitioner submitted copies of its Articles of Incorporation, Delaware Certificate of Good Standing and its New Jersey Certificate of Authority to operate as a Foreign Corporation. Petitioner is a wholly owned subsidiary of incNetworks, Inc., a privately held Delaware corporation. The competitive exchange carrier questionnaire submitted indicates that incNetworks, Inc. is a holding company and does not control or own any other business other than CitiBroadband.

Petitioner is requesting authority to operate as a competitive local exchange and interexchange carrier to business customers and other carriers on a statewide basis, however, it intends to initially offer its services in the City of Long Branch. Petitioner states that it plans to initially offer dedicated point-to-point and point-to-multipoint transport and data services to enterprise customers and other common carriers. At a later date, Petitioner may expand its service offerings to include a broader range of products and services. Petitioner states that it intends to focus on deploying technology to provide a core set of communications transport services tailored to meet specific needs of carriers, particularly commercial mobile radio service providers and enterprise business customers with high capacity point-to-point digital data communications needs. As business and economic circumstances dictate, Petitioner states that it intends to provide additional local exchange access and dedicated transport services. Petitioner states that it will provide its data-only citywide broadband managed network solutions primarily through a combination of traditional wireline elements, fiber cable and wireless elements. CitiBroadband also states that it will provide high-capacity access alternatives to existing copper and fiber optic based telecommunications services. These services will include point to point data connectivity, access to the Public Switched Telephone Network and high speed Internet Access. In addition, the Petitioner will provide the ability for enterprise customers or other carriers to utilize the Petitioner's bandwidth to offer their own telecommunications services via Petitioner's network infrastructure. Petitioner further states that it will not initially provide voice-grade local exchange services, operator services and directory assistance. Petitioner intends to collocate its interconnect equipment in incumbent local exchange carrier central offices in order to interconnect with other carriers and to secure access to unbundled network elements. To the extent that CitiBroadband provides voice grade local exchange services in the future, operator and directory assistance services will be provided. The competitive exchange carrier questionnaire submitted with the Petition indicates that Petitioner intends to seek interconnection upon certification and will likely opt-into an agreement with Verizon, AT&T and/or Comcast/Cablevision.

Petitioner claims that it has not been cited, sanctioned or investigated by any state or federal regulatory authority. Petitioner states that it will comply with all rules and regulations governing the provision of dial-tone or voice grade service if and when Petitioner begins to offer such service. Petitioner states that it will bill all of its end-user customers directly, since it does not intend to utilize a billing agent in issuing bills for services rendered to end users. Petitioner further states that it will not use a "billing clearinghouse" or other outside entity to issue bills to its customers. All bills sent to end-user customers will bear the Petitioner's name and provide a toll-free number for customer inquiries and complaints. Petitioner's toll free number for billing and service related issues is 1-877-817-8088. The toll free number is available twenty-four (24) hours a day, seven (7) days a week. Petitioner's registered Agent is Ingrid Mullins, 198 Brighton Avenue, Long Branch, New Jersey, 07740.

Petitioner requests a waiver of N.J.A.C. 14:1-4.3 which requires that books and records be maintained in accordance with the Uniform System of Accounts ("USOA"). In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles.

Petitioner states that as evident from the information contained in Exhibit D, CitiBroadband is managed by persons with substantial technical expertise in designing, constructing and operating telecommunications network. Petitioner states that this wealth of expertise will enable CitiBroadband to provide its interexchange customers with advanced, state-of-the-art technology for its telecommunications services. Petitioner also states that it has all qualified personnel, including individuals specializing in accounting, engineering and sales, to provide competitive local exchange services.

## DISCUSSION

On February 8, 1996, the Federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner is in compliance with Board's filing requirements to provide telecommunications services in New Jersey.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to "provide diversity in the supply of telecommunications services" and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed CitiBroadband's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout New Jersey. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60, and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and the Division of the Rate Counsel respectively.

The Board HEREBY ORDERS that:

- 1) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- 2) Pursuant to N.J.S.A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 the following year.

On or before February 1<sup>st</sup> of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive

these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

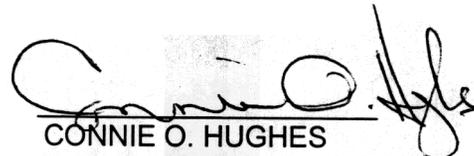
Regarding the Petitioner's request for a waiver of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirement that the Petitioner maintain its books and records under the USOA. The Board APPROVES the Petitioner's request for exemption from maintaining its books and records under the USOA.

DATED: 9/28/06

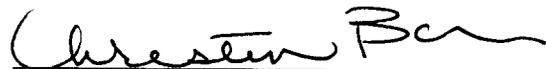
BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
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CONNIE O. HUGHES  
COMMISSIONER

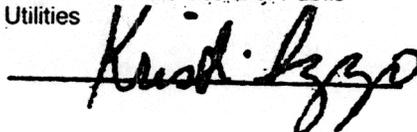
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
CHRISTINE V. BATOR  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



IN THE MATTER OF THE PETITION OF CITIBROADBAND WIRELESS, INC.  
FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE  
FACILITIES-BASED RESOLD LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES THROUGHOUT THE STATE OF NEW JERSEY  
DOCKET NO. TE06060468

**SERVICE LIST**

| <b>Serial<br/>No.</b> | <b><u>Name and Address</u></b>  | <b>Serial<br/>No.</b> | <b><u>Name and Address</u></b>  |
|-----------------------|---|-----------------------|---|
| <b>1</b>              | <b>Petitioner's Contact Person:</b><br>Jesse E. Russell, Chairman & CEO<br>CitiBroadband Wireless, Inc.<br>198 Brighton Avenue<br>Long Branch, New Jersey 07740   | <b>4</b>              | <b>Board's Staff:</b><br>Walter Szymanski, Director<br>Division of Audits<br>Board of Public Utilities<br>Two Gateway Center<br>Newark, New Jersey 07102  |
| <b>2</b>              | <b>Petitioner's Attorney:</b><br>Paul L. Kattas<br>KELLEY DRYE AND Warren, LLP.<br>200 Kimball, Drive<br>Parsippany, NJ 07054   | <b>5</b>              | <b>Board's Staff:</b><br>Anthony Centrella, Director<br>Division of Telecommunications<br>Board of Public Utilities<br>Two Gateway Center<br>Newark, New Jersey 07102                             |
| <b>3</b>              | <b>Division Of Rate Counsel:</b><br>Seema M. Singh, Esq.<br>Director, Division of Rate Counsel<br>Division of Rate Counsel<br>31 Clinton Street, 11 <sup>th</sup> Floor<br>P.O. Box 46005<br>Newark, New Jersey 07101 | <b>6</b>              | <b>Deputy Attorney General:</b><br>Arlene Pasko<br>Department of Law & Public Safety<br>Division of Law<br>124 Halsey Street, 5 <sup>th</sup> floor<br>P.O. Box 45029<br>Newark, New Jersey 07102 |